

FARMINGTON CITY PLANNING COMMISSION

Thursday, August 28, 2008

PLANNING COMMISSION STUDY SESSION

Present: Chairman Kevin Poff, Vice Chairman John Bilton, Commission Members Paul Barker, Randy Hillier, Craig Kartchner, Steve Andersen, Jim Young, Assistant City Planner Glenn Symes, and Recording Secretary Kami Mahan. Commission Member Rick Wyss was excused.

Vice Chairman **John Bilton** began discussion at 6:35 p.m.

[Chairman **Kevin Poff** arrived at the meeting at 6:39 p.m.]

Agenda Item #2b was postponed to allow City Planner David Petersen time to collect pertinent information.

The following items were reviewed:

FARMINGTON CITY (PUBLIC HEARING) - CONSIDERATION OF A ZONE CHANGE FROM R-2 (MULTI-FAMILY RESIDENTIAL) TO R (RESIDENTIAL ON 4.91 ACRES LOCATED AT APPROXIMATELY 1350 NORTH MAIN STREET (MOON PARK SUBDIVISION). (Z-4-08) (Agenda Item #3)

Glenn Symes reviewed the background of this Agenda item. **Steve Andersen** reported that he called one of the two homeowners in the subdivision who was renting out his home, who said he did everything according to the zoning. The Commission discussed the development's CC&R's, which were never enforced.

The original zoning was discussed, and whether a zone change fits the surrounding zoning. It was pointed out that the CC&R's were not the Commission's concern, but building permits were not obtained. The Farr home has been rented as a duplex off and on to family members.

Chairman Poff said the issue was whether the zone change is appropriate. Most residents are in favor of the R zone, and it fits the neighborhood and area. The Commission discussed what precedence would be set with this change.

Glenn Symes emphasized that with the Farmington Bay subdivision there was no single family residential zoning at the time of recording.

It was pointed out that a zoning change can be made when the majority of residents are in favor and it is appropriate. **Glenn Symes** said this situation will be considered at the next meeting.

GENE MANN - (PUBLIC HEARING): APPLICANT IS REQUESTING A MINOR BOUNDARY ADJUSTMENT FOR PROPERTY LOCATED AT 36 NORTH MAIN STREET WHICH WILL RESULT IN PARCELS LESS THAN ONE HALF ACRE BUT WILL NOT CHANGE THE GROSS AREA OF THE TWO EXISTING SUBJECT PROPERTIES. A CONDITIONAL USE APPROVAL IS REQUIRED FOR ANY CHANGES TO LOTS SMALLER THAN THE REQUIRED MINIMUM IN THE BR (BUSINESS RESIDENTIAL) ZONE. (Agenda Item #4)

This item was briefly discussed, and the Commissioners agreed that this proposal improves the property. It also gives the possibility of an easement along the new boundary.

T-MOBILE - (PUBLIC HEARING): APPLICANT IS REQUESTING AN AMENDMENT CHAPTER 28 (SUPPLEMENTAL AND QUALIFYING REGULATIONS) OF THE ZONING ORDINANCE REGARDING WIRELESS TELECOMMUNICATIONS FACILITIES. THE APPLICANT IS REQUESTING A CHANGE TO THE ORDINANCE TO ALLOW A 100' MONOPOLE IN THE AE (AGRICULTURAL ESTATES) ZONE. (ZT-6-08) (Agenda Item #5)

Glenn Symes explained that a text change is not needed for this request because the school is an institutional use. A Commission member questioned what the school district receives for allowing a communications tower on its property.

Randy Hillier expressed reluctance to approve, saying that other locations such as by the Fairgrounds or Station Park would be more advantageous. He said it should not be in a residential neighborhood, and that placement by the power lines is irrelevant. **Craig Kartchner** agreed. The Commission discussed this issue, and whether to change the text.

[**Jim Young** and **David Petersen** arrived at the meeting at 6:50 p.m.]

GARDNER DEVELOPMENT - APPLICANT IS REQUESTING A RECOMMENDATION TO MODIFY THE FINAL PUD MASTER PLAN FOR THE RESIDENTIAL PHASE 2 PORTION ONLY OF THE VILLAGE AT OLD FARM CONSISTING OF 69 LOTS ON 14.6 ACRES AND FINAL PLAT APPROVAL RELATED THERETO. (S-8-07, S-17-07) (Agenda Item #2b)

David Petersen distributed copies of the latest elevations of this development, and said approval should be based on previously given conditions. Only one signature is needed from UDOT, and formal approval is needed by the City Council.

The Commission discussed what action should be taken, and the Commission members agreed that more time was needed to review the new information.

The meeting adjourned at 7:02 p.m.

PLANNING COMMISSION REGULAR SESSION

Present: Chairman Kevin Poff, Vice Chairman John Bilton, Commission Members Paul Barker, Randy Hillier, Steve Andersen, Craig Kartchner, Jim Young, City Planner David Petersen, Assistant City Planner Glenn Symes, and Recording Secretary Kami Mahan. Commissioner Rick Wyss was excused.

Chairman Poff called the meeting to order at 7:05 p.m. **Steve Andersen** offered the invocation.

APPROVAL OF MINUTES (Agenda Item #1)

The Commission reviewed the minutes of the Planning Commission meetings held August 14, 2008, and August 7, 2008.

Motion

John Bilton moved to approve the minutes of the Planning Commission meeting held August 14, 2008. The motion was seconded by **Steve Andersen**, and was approved unanimously.

Motion

John Bilton moved to approve the minutes of the Planning Commission meeting held August 7, 2008. **Craig Kartchner** seconded the motion, which passed by a unanimous vote. **Paul Barker** abstained due to his absence at that meeting.

CITY COUNCIL REPORT (Agenda Item #2a)

Glenn Symes reported the proceedings of the City Council meeting held on August 19, 2008. He covered the following items:

- The City Council continued the public hearing for the TOD zone text.
- The Plat Amendment for Shepard Creek Crossing ("Quick Lube") was approved. Site work still needs to be done.
- The City Council approved the Village at Old Farm proposal, and required that the park strip will narrow as the property proceeds into the development.
- The City Council approved the Final Plat for Zion's Bank.
- The Meadow View Final Plat and Final PUD Master Plan were approved by the City Council, with conditions.

Motion

Steve Andersen made a motion to postpone Agenda Item #2b to the end of the meeting to allow time for proper consideration. **Jim Young** seconded the motion, which passed unanimously

FARMINGTON CITY (PUBLIC HEARING) - CONSIDERATION OF A ZONE CHANGE FROM R-2 (MULTI-FAMILY RESIDENTIAL) TO R (RESIDENTIAL ON 4.91 ACRES LOCATED AT APPROXIMATELY 1350 NORTH MAIN STREET (MOON PARK SUBDIVISION). (Z-4-08) (Agenda Item #3)

Background Information

Farmington City has received a petition from residents of the Moon Park subdivision to amend Farmington's official zoning map for the subdivision from R-2 (Multi-family Residential) to R (Residential) for all 15 lots in the original subdivision. The request is similar to that of the Farmington Bay subdivision rezone request. There are several aspects of this subdivision and its current zoning that are similar to the Farmington Bay rezone request. The Moon Park subdivision was recorded well before the official adoption of a single-family residential zone. The Moon Park subdivision was recorded in July 1969 and the R-1 (single-family) zone was adopted 10 years later in May 1979. In addition, about half of the lots within the subdivision are less than or right around 10,000 square feet. The minimum lot size for the R zone is 8,000 square foot and the minimum lot size for the R-2 zone is 10,000 square feet. As the zoning stands, there are five lots that do not meet the minimum lot size for the R-2 zone but would meet the minimum for the R zone. Lastly, the general plan designation for the subdivision is Low Density Residential which is inconsistent with the current R-2 zone.

Since the original zone did allow for multi-family residential units, private CC&R's were recorded against the properties to permit only single-family residential units. These CC&R's are, of course, enforceable only by private means, but as a result of these restrictions the subdivision developed as primarily a single-family residential neighborhood.

END OF PACKET MATERIAL

David Petersen displayed an overhead map of the property, and reviewed the background information of this request. He pointed out the packet material on this matter containing the petition from surrounding neighbors, and letters from the Farris and the DeHaans.

Public Hearing Opened

Chairman Poff opened the meeting to a public hearing at 7:15 p.m.

Geri Allen, 736 Moon Circle, said that they have had protective covenants since 1970. One of the covenants stated that the homes are single family dwellings. They have requested changing the zoning to R to reinforce these covenants. Thirteen of the fifteen residents have

signed the petition for this change. They have enjoyed the safety and security of single family homes in the neighborhood since 1974, and want the zone change to protect their future. **Ms. Allen** said Nathan Farr is in Saudi Arabia, and will be there for five years. Mr. Farr was told that he was in violation of the protective covenants. If the zoning is changed, he will do the right thing. They love living in single family homes.

R.J. Barnes, 733 Moon Circle, expressed his appreciation to the City Council and Planning Commission, and to the DeHaans, for the home improvements they have made. He said the area would have been designated R if it had been available at the time the area was zoned. Single family homes are what is of greatest value. The Farris and DeHaans are the only two who did not sign the petition. The title company did not inform the DeHaans about the protective covenants when they purchased the home, and perhaps there is recourse against the title company.

Susan DeHaan, 510 North 200 East, said that they bought the home in January, partly because of the R-2 zoning, which is scarce in Farmington and thus has more value. The home is located on Main Street, which makes it more difficult to sell single family homes because of the busy traffic. Changing the zone to R would hurt them financially. The previous owner told them a home was already being rented in the area, and they were told by their attorney that covenants were probably negated by non-enforcement. R-2 is a better designation because as people get older they can rent out their basement to provide extra income. This area has had an R designation since 1980. To wait to change the zone until the damage is done is unfair.

George DeHaan, 510 North 200 East, said he appreciates the Planning Commission's efforts in planning the City, and Steve Andersen's call to try to resolve the matter. They took this project on to help clients and to make a little money. They did not want to cause problems. They were glad to make the improvements to attract good residents into the home. They would like this resolved peacefully, but they request that the area remain R-2. **Mr. Allen** said as he gets older, it would be good to have the extra income from renters.

Public Hearing Closed

Chairman Poff closed the public hearing at 7:30 p.m.

Mr. Poff stated that the Planning Commission cannot negate or enforce private CC&R's. If the uses are legal before the change, they are grandfathered in following the change in the zoning. **Mr. Poff** opened the matter up to the Commission for discussion.

In response to an issue raised by **Commissioner Young**, **Glenn Symes** explained that if people make changes that are not approved under the zoning, they are given the opportunity to come into compliance by the building department. After that, there is an enforcement process, and from there it goes to court if necessary.

David Petersen explained that the DeHaans were sent notice to comply with zoning since they were renting out the home as a duplex. Court proceedings are going to be initiated

with Nathan Farr. Building permits are required for two-family dwelling situations, and were not obtained in these cases.

Randy Hillier pointed out that if CC&R's are not enforced, they are negated. **Craig Kartchner** asked if the CC&R's would have been taken into account if the proper building permits had been applied for by the Farris or DeHaans. **David Petersen** said they would not have. Legal action would have had to have been taken by other residents in the subdivision to stop them.

Geri Allen said there is not a subdivision committee, but that Mr. Farr was notified by the neighbors he was in violation of the covenants.

In response to questions by Commissioners, **Mr. Petersen** said that when it is discovered that someone has failed to obtain a building permit, the building inspector issues a cease and desist and a non-compliance order, and the building can be declared off limits. They can then get a remodeling permit and get things fixed after the fact. In an R-2 zone, neighbors do not have to be notified about a conditional use permit if a single family dwelling is turned into a duplex.

Chairman Poff said that even though the public hearing was closed, he would allow **Mr. DeHaan** to add another comment.

Mr. DeHaan said a property can be sold as an R-2 zoning, which doesn't necessarily mean it will be used as a duplex. They did not change the structure or do anything which requires a permit. Carpet, paint and new cabinets do not require permits.

David Petersen said he believed that permits are usually needed for replacing kitchen cabinets and for most bathroom remodels. **Mr. DeHaan** reiterated that they are not selling the home as a duplex, but as R-2 zoning.

It was pointed out that the date of the application for a building permit has to be timed before the date of the zone text change.

Randy Hillier commented that the argument for the Moon Park subdivision was more compelling than Farmington Bay, and there is no choice but to change this to an R zone, or the Commission would be flip-flopping. **Steve Andersen** said that in the Farmington Bay decision, the overwhelming majority of residents requested the change, which is the case in this subdivision as well. **Mr. Hillier** added that the CC&R's had expired in the other case, so there is no choice here.

Chairman Poff said that the issue was not whether the CC&R's are in effect, but rather whether the change is appropriate to the neighborhood and if there an interest to the City. He believes either designation would be appropriate in this part of town. The subdivision probably would have been designated R if that designation been around at that time. However, there have been more than 20 years to petition for a zoning change, and yet that is not a reason to deny the request.

Motion

Jim Young moved to recommend that the City Council rezone the Moon Park Subdivision from R-2 (Multi-family Residential) to R (Residential). **Paul Barker** seconded the motion, which passed by a vote of 5 to 1. **Steve Andersen** opposed the motion. **Chairman Poff**, and Commissioners **Hillier, Bilton, Barker, Young, and Kartchner** voted in favor.

Findings:

1. The subdivision is compatible with the R zone designations since eight of the 15 lots are around or less than 10,000 square feet. The minimum lot size for new subdivisions in the R zone receiving a waiver of the conservation subdivision requirements is 8,000 square feet. The minimum lot size for the R-2 zone in the same instance is 10,000 square feet. The larger lot size in the R-2 zone is designed to accommodate two-family dwellings as well as the parking demands for such a dwelling.
2. The City recently prohibited two-family dwellings but approved “secondary dwellings” as a use in the LR zone, and at the same time expressly prohibited “secondary dwellings” in the R zone reaffirming the district as an exclusive single-family zone.
3. The zone change is compatible with the General Plan which states as a goal to “maintain Farmington as a peaceful, family-oriented, pastoral community through enforcing strict zoning ordinances and covenants, architectural standards, and density restrictions”.
4. The subdivision is primarily single-family residential neighborhood and more consistent with an R zone designation.
5. The change in zoning may clarify the intended use of the homes in the subdivision by using the more clear zoning designation rather than private CC&R’s.
6. The R-2 zoning was the most restrictive zoning available in Farmington at this time the subdivision was developed.
7. The Farris provided a detailed letter, and there was nothing suggesting that a building permit or duplex was officially applied for or permitted.
8. There was no application for a building permit to make a duplex on the DeHaan property. If these had been applied for, there would have been a grandfathering situation.
9. This zone change, based upon the time frame, it was built in 1969 and the zone was not available. This is consistent with what has been there and with what is

there today.

Steve Andersen explained his opposition to the request, saying that if the CC&R's had been enforced regarding the Farris and DeHaans as soon as the violations were discovered, this situation could have been avoided. The lack of communication within the neighborhood and the lack of enforcement of the CC &R's were a mistake. **Mr. Andersen** believes that the approval is right in the preponderance of the evidence, but mistakes have been made on all sides. He complimented the appreciation expressed by neighbors to the DeHaans on their improvements. He hopes feelings are mended.

Chairman Poff added that although either zoning is appropriate for the area, the large number of residents requesting the change warrants its approval. He does not see an abiding reason for the City to deny the request.

Dave Petersen informed the Commission that this matter will not be heard at City Council until the first Tuesday in October.

GENE MANN - (PUBLIC HEARING): APPLICANT IS REQUESTING A MINOR BOUNDARY ADJUSTMENT FOR PROPERTY LOCATED AT 36 NORTH MAIN STREET WHICH WILL RESULT IN PARCELS LESS THAN ONE HALF ACRE BUT WILL NOT CHANGE THE GROSS AREA OF THE TWO EXISTING SUBJECT PROPERTIES. A CONDITIONAL USE APPROVAL IS REQUIRED FOR ANY CHANGES TO LOTS SMALLER THAN THE REQUIRED MINIMUM IN THE BR (BUSINESS RESIDENTIAL) ZONE. (Agenda Item #4)

Background Information

The applicant is requesting a minor boundary adjustment between two properties under the applicant's ownership. The proposed lot line adjustment will move portions of the northern lot line southward creating a slightly larger northern lot and slightly smaller southern lot. The total area of both lots will not change under the proposal.

The BR (Business Residential) zone requires lots to be "*at least one half (1/2) acre unless otherwise provided by a conditional use permit*". The ordinance states that the standard for one half acre lots shall not apply if the lots were legally established prior to the effective date of the BR ordinance. The subject lots were legally created prior to the adoption of the BR zone in 1994 and therefore exempt from the stated lot size requirements. However, since a change is being made to the existing lots, a conditional use permit should be acquired to do what the applicant is proposing.

END OF PACKET MATERIAL

Chairman Poff introduced this item, and **Glenn Symes** stated that he was available for questions. The applicants were invited to address the Commission.

Eugene and Rebecca Mann explained that the rock barn is an historical building that sits on the property line. They bought the adjacent property because they wanted to protect the building. This proposal moves the property boundary approximately 30 feet to include the well house. Right now the well house belongs to the little house lot, and it is only 8 feet from the house to the property line. The stone house is 2,000 square feet, the small one has 1,000 square feet, and they believe the big house should have more property.

Public Hearing

The public hearing was opened at 7:53 p.m. No one spoke to the issue, and the hearing was closed.

Chairman Poff asked if the Manns need to finalize the plat survey, and **David Petersen** replied that they do not. **Paul Barker** commented that this proposal makes sense aesthetically.

Motion

Paul Barker moved that the Planning Commission grant a conditional use permit for a proposed lot line adjustment on property located 56 North Main Street and 36 North Main Street with the following conditions:

1. The gross area of the subject lots remain unchanged;
2. The lot line adjustment shall not violate any setback requirements established in the BR zone; and
3. The lot line adjustment shall be recorded with the Davis County Recorder's Office and shall not vary substantially from the plans submitted to the City.

Craig Kartchner seconded the motion, which passed by a unanimous vote.

John Bilton asked if the applicants had contacted the Historical Commission. **Rebecca Mann** said they had not. **David Petersen** clarified that a conditional use permit is good for 12 months, and a 12-month extension can be requested.

Findings

1. The existing use of the particular location is necessary and desirable and provides a service which contributes to the general well-being of the community and the requested lot line adjustment would not change the existing use;
2. The existing use complies with all regulations and conditions in the Farmington City Zoning Ordinance for this particular use and the proposed change would also be in compliance with the Farmington City zoning ordinance;
3. The use conforms to the goals, policies, and principles of the Comprehensive

General Plan;

4. The existing use is compatible with the character of the site, adjacent properties, surrounding neighborhoods and other existing development and the proposed lot line adjustment will not create any detrimental effects to the site, adjacent properties or surrounding neighborhood;
5. The location provides or will provide adequate utilities, transportation access, drainage, parking and loading space, lighting, screening, landscaping and open space, fire protection, and safe and convenient pedestrian and vehicular circulation;
6. The existing use is not detrimental to the health, safety and general welfare of persons residing or working in the vicinity and the proposed lot line adjustment would not cause:
 - a. Unreasonable risks to the safety of persons or property because of vehicular traffic or parking;
 - b. Unreasonable interference with the lawful use of surrounding property; and
 - c. A need for essential municipal services which cannot be reasonably met.
7. This proposal helps protect the historical nature of the buildings.
8. This proposal is a good boundary change in an effort to allow the Historical Commission to decide what designation they have. The well house may be an important part of that.
9. The smaller lot is now larger which is closer to being in compliance than the original two.

T-MOBILE - (PUBLIC HEARING): APPLICANT IS REQUESTING AN AMENDMENT CHAPTER 28 (SUPPLEMENTAL AND QUALIFYING REGULATIONS) OF THE ZONING ORDINANCE REGARDING WIRELESS TELECOMMUNICATIONS FACILITIES. THE APPLICANT IS REQUESTING A CHANGE TO THE ORDINANCE TO ALLOW A 100' MONOPOLE IN THE AE (AGRICULTURAL ESTATES) ZONE. (ZT-6-08) (Agenda Item #5)

Background Information

Recently, an application was submitted to the City for a conditional use permit for the placement of a 100' monopole wireless telecommunications facility at Eagle Bay Elementary School. It was thought at the time of application that the current ordinance regulating these facilities limited the height to 60'. As a result, a request was made to amend the ordinance to allow for a

taller pole. A notice was posted to the newspaper several weeks ago to ensure compliance with all requirements of noticing. Upon further review of the ordinance however, staff feels that there is no need for an ordinance amendment to allow the City to process the applicant's submittal.

There are several sections of the Wireless Telecommunications Facilities ordinance in Chapter 28, Supplemental and Qualifying Regulations, that deal with height and placement. The table shown in the ordinance shows a monopole with (what should be in the text) a structure greater than 2' in width and a total height taller than 60' as a use not permitted in the AE and AA zones (this is the zoning for Eagle Bay Elementary). This would suggest that the applicant's submittal would need a text amendment. Section 11-28-190 (e) (2) states that *"All types of wireless telecommunication facilities are prohibited in residentially zoned areas except as may be permitted with a conditional use permit upon or within any institutional use, regardless of the zoning designation"*. This section lists public schools as an institutional use. This suggests that the "N" on the use table is trumped by the fact that the school is an institutional use. If this is the case, the default height limit would be the standard for review of a conditional use permit. Section 11-28-190 (g) states the height limit as *"...up to one hundred (100) feet or up to one hundred twenty feet if approved as a co-location."* The combination of these provisions seems to suggest that a 100' tall monopole is a conditional use if placed on the site of an institutional use in a residential zone.

The one area that may pose difficulty for the applicant with regard to their specific application is its proximity to adjacent residential parcels. Section 11-28-190 (f) (4) states that *"No such monopole shall be located within two hundred (200) feet of a residential zone."* Since the school is categorized as an institutional use, the zoning for that parcel is trumped. However, adjacent parcels are still zoned residential and this section requires a 200' buffer from the residential parcel, not the structure. This particular staff report and agenda item does not deal with the specifics of the application, but a walk through of this provision is important. Section 11-28-190 (k) (5) provides the opportunity for the applicant to request a reduction in the required setback if the Planning Commission finds that *"practical difficulties are demonstrated by the applicant"*. A request for a zone text change can be made to eliminate the need for the 200' buffer. This would prove problematic for all other areas of the city since this provision is not relegated to residential zones.

Ordinance changes may be discussed if the Commission wishes to make changes to section 11-28-190. However, as stated, staff feels that no changes need to be made to the ordinance at this time.

END OF PACKET MATERIAL

Glenn Symes said it was originally thought that a zone text change was needed in order to grant the applicant's request, but on further review staff realized the text change was not required. However, notice has already been given, and a public hearing still needs to be held.

Public Hearing

Chairman Poff opened the public hearing at 7:58 p.m.

Jared White, representing T-Mobile, 121 Election Road, Draper, said that the ordinance needs to be changed unless the Commission determines otherwise. They have multiple leases with the school district, which does not want a pole less than 100' tall . This deters other applicants from requesting access to the property. The district would rather have one 100' pole than three 60' poles. The school district has requested that the company lease enough ground space to accommodate co-locaters on the pole.

Public Hearing Closed

Chairman Poff closed the public hearing at 8:00 p.m. and turned the time over to the Commission for discussion.

Steve Andersen said that T-Mobile seems to be relying on Staff to determine whether the ordinance will work. Since staff has decided no ordinance amendment was needed, the request for the tower should be approved.

Chairman Poff asked for assurance that the zoning designation is not applicable. **Glenn Symes** read a portion of the language of the ordinance (Section 11-28-190 (e) (2)), and said that further in this section it states that all schools are institutions. He read further from the ordinance regarding the 200' buffer.

Chairman Poff said that even in institutional use areas there is a 200' buffer, and the Commission has the option to make changes. **Mr. Symes** responded that the buffer applies if the location is adjacent to a residential zone. There is no requirement for commercial areas. This issue will be addressed when the conditional use permit is considered.

It was clarified that the zone text change would apply city-wide. **Chairman Poff** said that options for extending poles have been allowed in the past because it was a conditional use. The question is if there a reason to give up the ability to make a determination whether or not it is appropriate, or if it should be a permitted use. He does not believe there is a compelling interest to change it, and doesn't want to make a blanket statement that the 100' poles are allowed anywhere. Other Commissioners agreed.

Motion

Steve Andersen made a motion to recommend that the City Council not alter the zone text. The motion was seconded by **Craig Kartchner**, and was approved unanimously.

Jared White stated that the text amendment application will be withdrawn.

Findings

1. It is appropriate for the Commission to leave jurisdiction for the Commission to decide if the higher pole is appropriate.

2. It is detrimental to give blanket approval for higher poles in the City.

Commissioners expressed their wish to obtain a statement from the school district when the conditional use is submitted. **Jason White** explained that they approach the district, which chooses the location on the school property where it wants the equipment placed. **Paul Barker** stated that because residents will probably question the need for the higher pole, the statement from the school district is needed.

Chairman Poff said that in the past, shorter poles have been granted with the option to extend, if they get co-locaters. He asked if this would be acceptable. **Mr. White** replied that it would be acceptable to T-Mobile, but he didn't know about the school district. The district wants to deal with the issue only once, and not have it repeated for every school. When co-locaters come in, T-Mobile does all the leases and other work, and the school receives payment.

Paul Barker asked **Mr. White** if he knew the height of the power poles in the area, and **Mr. White** guessed that they were 75 to 80 feet, and said this is part of the reason this location was chosen.

Craig Kartchner asked about increasing the circumference of notification, and **Mr. White** said that notice is given 300 feet from the entire border property of the school.

Paul Barker questioned why T-Mobile uses schools for pole locations. **Mr. White** said that doing it at businesses costs less initially, but then members of the public say they receive the impact but don't receive any money. At a school or public facility, the revenue is disbursed to the public rather than one individual. It is more expensive for T-Mobile, but it seems to make city councils and the public happier.

Paul Barker asked if the 100' pole required FAA lighting. **Mr. White** replied that it does not.

GARDNER DEVELOPMENT - APPLICANT IS REQUESTING A RECOMMENDATION TO MODIFY THE FINAL PUD MASTER PLAN FOR THE RESIDENTIAL PHASE 2 PORTION ONLY OF THE VILLAGE AT OLD FARM CONSISTING OF 69 LOTS ON 14.6 ACRES AND FINAL PLAT APPROVAL RELATED THERETO. (S-8-07, S-17-07) (Agenda Item #2b)

Background Information

During the miscellaneous portion of a previous agenda the Planning Commission favorably considered a modification to Phase 2 of the residential part of the Village at Old Farm. The City Council will also consider the proposed modification before a public hearing on September 2, 2008. In preparation for that meeting it is suggested that the Planning Commission reaffirm their earlier recommendation but this time confirm that it is subject to all conditions of the existing Final (PUD) Master Plan/final plat approval now in place as set forth in the letter to applicant dated July 16, 2007.

The developer is proposing to reconfigure the building lots/dwelling units as depicted in the attached illustrations and summarized on the following table:

<u>Housing Type in Phase 2</u>	Dwelling Units	
	<u>New</u>	<u>Old</u>
Single Family Dwellings	39	33
Three Family Dwellings	30	18
Two Family Dwellings	<u>0</u>	<u>18</u>
Total Multi-family Dwelling Units	30	36
	<u><u>69</u></u>	<u><u>69</u></u>
TOTAL Dwelling Units	69	69

Regarding the Final (PUD) Master Section 11-27-090(b) states in part, "The final plan shall not vary substantially from the previously approved Preliminary (PUD) Master Plan. The Final (PUD) Master Plan shall be deemed in substantial compliance with the Preliminary (PUD) Master Plan provided that:

- (1) The lot areas do not vary by more than 10 percent;

[Actual Variance: 6.86%]

- (2) A reduction of the area designated for common open space is no more than 5 percent;

[Decrease = - 0.46%]

- (3) An increase in the floor area proposed for non-residential uses is no more than 5 percent;

[n/a]

- (4) An increase in the ground coverage ratio by all buildings is no more than 5 percent."

[Increase = +0.76%]

END OF PACKET MATERIAL

Chairman Poff introduced this Agenda item. **Dave Petersen** reviewed the "Background Information" of this request, and showed an overhead of the previously approved plan. He said

that this plan mirrored the preliminary PUD Master Plan. He then showed the current proposal, and said there is a difference between this and the preliminary master plan. He reviewed the table in the background information.

Mr. Petersen said the first three pages of the elevations were received on July 8th, but some discrepancies were noticed late today. He pointed out the changes between the past elevations and the newly received ones.

Chairman Poff asked if a recessed garage was required by ordinance. **Dave Petersen** read from the ordinance, and said it was "encouraged." **Paul Barker** asked if staff was agreeable to the single car garage, and **Mr. Petersen** replied that they were.

Chairman Poff expressed concern that the garages have been moved to the front. He said the Commission has actively worked to keep garages from being preeminent on homes, and that he would hate to do a turnabout on this issue.

The architect on the project was invited to address the Commission.

Architect **Dave Dixon** said he had not expected to be on the Agenda, and that they thought they were improving the plan.

David Petersen clarified that City staff addressed issues raised by concerned citizens at City Council meeting on the Zion's Bank proposal. The development agreement has been approved, but has not been signed by the Mayor.

There was a discussion on what changes have been made on the new elevations. **Dave Dixon** said they were still within the ten percent limit. He said market and other conditions change, which required that the design be somewhat modified. He did not find the garages offensive, and said this is what most homes have. He did not think the change was significant.

Dave Petersen said that in this zone, the guidelines say recessed garages or side entry garages are encouraged. **Dave Dixon** said they are doing side entries where possible. The advantage of a front garage is that landscaping is increased.

The property setback and the optional garage extensions were briefly discussed. **Mr. Dixon** suggested more attractive garage doors. **Steve Andersen** said the carriage front rendition with windows on the garages would be great, and wondered what could be done to ensure, rather than "encourage" attractive garages.

Developer **Jono Gardner** was invited to address the Commission. He said they are now a residential builder and will build all the units. They have been marketing this way for three months, and this has been a non-issue. They have 75 people who are interested in the development, and no one has mentioned the garage aesthetics. There are nearby residents who are ready to sell their homes and move into the development. They are trying to market something to attract, and not repel, buyers. From a marketing standpoint they are excited. They have spent a lot of money, and he is surprised at the garage issue. He thought they were ready to

record the plat.

Mr. Gardner said the issues surrounding UDOT were never a relevant decision for the residential area. The access coming in does not affect it. He said Cory Pope, the Region 1 Director of UDOT, gave an official sign-off today. This is relevant for the commercial area. He would never expect the plat to be recorded without this signature.

Dave Dixon explained several details about the February 2007 elevations, and said that the new design and landscaping are attractive.

The Commission discussed the new garages. **John Bilton** said the developer wants a sellable product, that more yard in the front is valuable, and they can make this decision based on what is marketable. The ordinance language was relied upon. The product is consistent with a PUD. There should be a consistency of materials through the development. He is basically comfortable with the plan.

Chairman Poff said that prominent garages have an impact on the City. Garages that are on a flat plane with the house or protrude slightly are fine, but these are extensions. He is confident the architect can come up with a design that does not do this.

Randy Hillier said it was disingenuous of the Commission to be discussing this in such great detail. The NMU zoning should be changed if this is what they are going to do. If they are going to "encourage" less garage frontage, it can't be made a requirement.

Chairman Poff said the original approvals were based partly on the design. The Commission is allowed to propose changes.

Dave Dixon said they complied with the side load request, which is a big improvement.

Paul Barker said if they are forced to do something which is not marketable, no one wins. He doesn't want unmarketable property sitting unoccupied.

Randy Hillier said approval is the right thing to do considering the zoning.

Steve Andersen said he was not totally opposed. He honors all sides. This is a new elevation change at the last minute. He said he agreed with **Randy Hillier**, except that this decision will be up for scrutiny and they don't want to let something slip by. The Commission has given 10% concession of the treatment on the corners. This proposal is pushing beyond what the original thought was. There may be a compromise. The Commission's job is to make recommendations so everything can work, but now there are unexpected changes.

Dave Dixon said the extensions are approximately 6 to 8 feet. The Commission reviewed the elevations further. **Mr. Dixon** said they eliminated the twin homes and there is now more variety in the single family homes. He feels the increased landscaping is a good compromise.

John Bilton said the Commission needs to honor the intent. There has been a long time-

lapse since the beginning of this project, and now the market has changed significantly.

Chairman Poff asked if buyers had a choice of front or recessed garages. **Jono Gardner** said there was a choice on the old plan, but not on the new one. They are close to the market and are trying to build for that. A recessed garage could work, but they have been working on this plan for months.

Steve Andersen commented that the Commission just received the elevations. No one knew about this meeting. **David Petersen** said if the full elevations had been provided on July 8th, a problem would have been apparent, but he only realized there was a problem at 5:45 p.m. that afternoon.

Steve Andersen said only one elevation was a problem, and recommended tabling until the next meeting.

In response to questions from Commission members, **Jono Gardner** said the units will be built according to what buyers request. There was a back and forth discussion about how the homes would fit on the building envelopes. **Steve Andersen** made the point that standards need to be consistent.

The options of action were reviewed.

Motion

John Bilton moved that the Planning Commission recommend that the City Council approve both the Final (PUD) Master Plan and Final Plat for the residential Phase 2 portion only of the Village at Old Farm, subject to all conditions for such approvals recommended previously by the Commission, with the added condition that the 3-family dwelling units have an element of "Farmington rock". **Jim Young** seconded the motion.

Steve Andersen expressed frustration with being asked to make a decision on a proposal he had not had sufficient time to review. Other Commissioners agreed. **Mr. Andersen** said he did not want to make a recommendation which could cause unnecessary problems at the City Council level.

A roll call vote was taken, with Commissioners **Hillier, Bilton, Barker, and Young** voting for approval, and Commissioners **Andersen, Kartchner, and Chairman Poff** voting in the negative. The motion passed by a vote of 4 to 3.

The Commission members strongly emphasized that late information is unfair and frustrating to both the applicant and the Commissioners. **Chairman Poff** said the Commission is under no obligation to hear an item when it is late, and that if an item is not in the packet, a vote will be taken in the study session on whether or not to include it on the agenda.

Findings

1. The proposal is consistent in nature and language of the NMU zone.
2. The number of single family dwellings in the project have been increased.
3. The design element has the 3-family dwellings backing on to the commercial section of the project, thus allowing density to decrease as the project moves to the single family homes.
4. The total number of dwelling units remains the same.

Reasons for lack of approval by those voting in the negative:

1. There is concern with the neighborhood's character if garages are preeminent in the design. This would not give the feel that is wanted in Farmington.
2. Numerous changes have been submitted by the developer. They are moving far from the original development agreements and expectations for the NMU area.
3. UDOT signature still is not received.

ADJOURNMENT

Steve Andersen moved to adjourn. **John Bilton** seconded the motion, which passed unanimously. The meeting adjourned at 9:29 p.m.

Kevin Poff, Chairman
Farmington City Planning Commission